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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/498,950    02/04/00    CARPENTER

J    B0932/7134

EXAMINER

PM82/1024

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ART UNIT

PAPER NUMBER

3611  
DATE MAILED:

10/24/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/498,950

Applicant(s)

Carpenter et al.

Examiner

Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 13, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application:
- 4a) Of the above, claim(s) 30-35 and 51-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29, 36-46, 48-50, 56-65, 67-80, and 82-85 is/are rejected.
- 7) ☒ Claim(s) 47, 66, and 81 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 10 20) ☐ Other:

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### **Status of Application**

1. Applicant's amendment, filed Aug 13, 2001 has been entered in the application. Claims 1-85 are pending, claims 30-35 and 51-55 having been withdrawn from consideration.

### **Terminal Disclaimer**

2. The terminal disclaimers filed on Aug 13, 2001 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U. S. Patents 6,056,300 and 6,224,070 and U. S. Patent Applications 08/780,485 and 09/891,158 have been reviewed and are accepted. The terminal disclaimers have been recorded.

### **Claim Rejections - 35 USC § 102**

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 5-7, 10-14, 17-19, 22, 23, 26-28, 36-38, 42-46, 48-50, 56, 60, 62-65, 67-70, 74-80, 82-85 are rejected under 35 U.S.C. 102(e) as being anticipated by Shields (US 6,293,577, filed 10/3/1996). Shields teaches a snowboard binding for connecting a boot (14) to a snowboard, including a flexible unitary boot strap member (56) having a shape which corresponds to a snowboard boot, further connected to engagement and mounting straps (81, 82) which have first ends (81', 82') each with a pair of mounting fasteners (protuberances, col. 7, ll 44-57) which engage a plurality of apertures (88), and wherein when engaged, relative lengthwise movement between straps 81, 82 and boot strap 56 is prohibited, the straps having second ends (81", 82") configured to be mounted to the baseplate (through 90 and 18), the boot strap having a pair of pockets (83, 84) for engaging respective first ends of the mounting and engagement straps, the pockets having an entry slit and being formed internally of the strap and having top, bottom and lateral sides, wherein the first ends of the straps 81, 82 are conformed to the shape taken by the

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boot strap (compare figures 1, 2, and 7), under the influence of the connection between the straps (81, 82 and 56) and the top side of the pocket (e.g., proximate edges of the boot strap 56).

### **Claim Rejections - 35 USC § 103**

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 3, 4, 15, 16, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields. As regards claims 3, 4, 15 and 16, the reference of Shields is discussed above and fails to teach the apertures 88 as being formed in the straps 81 and 82, and the mating engagement fasteners being formed on the boot strap. The reversal of existing mating fasteners is generally well known in the art, and not considered to be beyond the skill of the ordinary practitioner, particularly in that the functioning of the device would not be compromised by such a reversal. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to reverse the relative locations of the positioning apertures (88) and the mating fasteners (on 81, 82) taught by Shields, positioning the apertures on the straps (81, 82), in order to modify the strap ends, and to facilitate the insertion of the straps in the boot strap (56) by reducing the cross section of the strap ends. As regards claim 61, the reference of Shields fails to teach the use of a screw as a fastener in place of the protuberances, however the use of screws for fastening purposes is old and well known, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a screw to engage the boot strap and straps 81, 82 for the purpose of insuring that the straps do not become disengaged from the boot strap during heavy use of the binding and snowboard.

7. Claims 8, 9, 20, 21, 24, 25, 29, 39-41, 57-59, and 71-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shields in view of Bumgarner (cited previously). The reference of Shields is discussed above and fails to teach at least one of the straps (81, 82) as being connected to the boot strap with a ratcheting buckle which engages mating serrations on an

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end of one of the straps (81, 82). Bumgarner teaches a snowboard boot mounting scheme wherein a first strap is connected to a second strap by a ratcheting buckle (41) wherein an end of one of the straps (42) is provided with serrated notches, to allow incremental adjustment. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the protuberance and mating aperture (88) mounting scheme for connecting one of the straps (81, 82) to the boot strap of Shields with a ratcheting buckle as taught by Bumgarner in order to allow for a quick tightening of the boot strap when the user has already installed the boot in the binding, thus facilitating a better transfer of energy from the rider to the snowboard.

8. Claim 85 is rejected under 35 U.S.C. 103 as being unpatentable over Bumgarner (US 5,758,895, cited by applicant). Bumgarner teaches a first strap component including a first strap piece (42) adapted to overlies and engage a boot, a second strap piece (4) movably mounted to the first strap piece through a connection ratchet (41) which, in use, does not allow any lengthwise movement between the two pieces (tightening being prevented by the user's boot, loosening being prevented by the ratchet), an end of the first strap piece being inserted through a portion of the second (through 41) and having a plurality of mating features (notches 42) which engage a corresponding mating feature (lock 41), the first strap of the first component being adjustably connected (through 8 and the adjustable slot and fastener assemblies 18 and 20) to a second strap component (6). The reference of Bumgarner fails to teach the reversal of the roles of the first and second straps, such that an end of the second strap may be inserted through the first. In that the reversal of the provisions of the lock and mating serrations would not adversely affect the operation of the binding, it would have been obvious to one of ordinary skill in the art at the time of the invention to reverse the location of the mating notches and lock taught by Bumgarner for the purpose of simplifying the manufacture of the individual strap component 4, such that it does not require a locking device.

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### **Allowable Subject Matter**

9. Claims 47, 66 and 81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Response to Arguments**

10. Applicant's comments, directed to the reference of Bumgarner as applied to claim 85 are noted. As regards the interpretation of the various elements, as argued by applicant, the rejection under 35 USC §102 has been withdrawn.

As further regards the reference to Bumgarner, applicant alleges that the binding cannot prevent any relative lengthwise movement, however the interaction of the ratchet and the user's boot, in use, would prevent such movement, as a tightening would be prevented by the boot, and a loosening would be prevented by the operation of the ratchet, thus meeting the claimed limitations as currently set forth.

In response to applicant's argument that the references must explicitly provide a suggestion for combining, this is not the case. A conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference (see *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969)), with skill being presumed on the part of the artisan, rather than the lack thereof (see *In re Sovish* 769 F.2d 738, 742, 226 USPQ 771, 774 (Fed. Cir. 1985)); further, references may be combined although none of them explicitly suggests combining one with the other (see *In re Nilssen* 7 USPQ2d 1500 (Fed. Cir. 1989)).

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**Conclusion**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

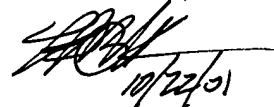
Assistant Commissioner for Patents  
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "UNOFFICIAL" or "DRAFT")

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3611**

F. Vanaman  
October 22, 2001



10/22/01